

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
Civil Action No.: 1:17-cv-00001-MR-WCM

BRYAN CURRY, TERRAN BROOKS,)
JERMAINE WILLIS, and BRIAN HOPPER)
on behalf of themselves and all others)
similarly situated,)
)
Plaintiffs,)
)
v.)
)
SCHLETTER INC.,)
)
Defendant.)
_____)

PLAINTIFFS' NOTICE OF VOLUNTARY DISMISSAL

Plaintiffs Bryan Curry, Terran Brooks, Jermaine Willis, and Brian Hopper, each individually and in their representative capacities hereby file this notice of dismissal of the above-captioned matter pursuant to Federal Rule of Civil Procedure 41(a)(1) and in support thereof respectfully state the following:

1. On January 3, 2017, Plaintiffs initiated the instant putative class action against Defendant Schletter, Inc. Plaintiffs, on behalf of themselves and on behalf of all others similarly situated, brought claims against Defendant related to a data security incident occurring on April 19, 2016, in which the 2015 W-2 tax information of former and current employees of the Defendant was released to an unauthorized third party.

2. Upon the filing of Plaintiff's Amended Complaint, Defendant moved to dismiss. On March 26, 2018, following briefing, this Court issued an Order granting Defendant's Motion as to the claim for breach of fiduciary duty, but denying the Motion in all other respects.

3. Prior to the deadline to file an answer to the Amended Complaint, Defendant filed with The United States Bankruptcy Court for the Western District of North Carolina a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code. Defendant moved this Court to stay all proceedings pending the resolution of the Chapter 11 bankruptcy proceedings. On May 1, 2018, this Court granted Defendant's motion.

4. Meanwhile, as part of the bankruptcy proceedings, Plaintiffs filed a Motion for Leave to File Class Proof of Claim. Upon filing the motion, Plaintiffs worked with the Creditor's Committee to determine the availability of insurance coverage for the claims brought in this lawsuit, as well as to determine possible remedies for the uncertified class of claimants.

5. After reviewing all applicable insurance policies and other documentation provided by the Defendant's insurance carriers, Plaintiffs determined that there is not available insurance coverage for the claims brought in this lawsuit nor are there sufficient assets to fully satisfy the claims of all Defendant's creditors.

6. On November 18, 2019, Plaintiffs withdrew their Motion for Leave to File Class Proof of Claim.

7. The instant matter has been stayed since May 1, 2018. The claims of the putative class have not been adjudicated and no damages have been measured, calculated or awarded. Further, any financial injury suffered by an individual member of the putative class as a result of this lawsuit is unknown to Plaintiffs and their counsel.

8. In light of the foregoing and pursuant to Federal Rule of Civil Procedure 41(a)(1), with an answer having not yet been served by Defendant, Plaintiffs hereby dismiss this action.

This is the 17th day of February, 2020

Respectfully submitted,

/s/ Jean Sutton Martin

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 17, 2020 a true and correct copy of the foregoing was electronically filed using CM/ECF. Copies of the foregoing document will be served upon all counsel of record via transmission of Notice of Electronic Filing generated by CM/ECF.

/s/ Jean Sutton Martin

JEAN SUTTON MARTIN